

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

RAYMOND WARE,)	CIVIL NO. 04-00671 HG/LEK
)	
Plaintiff,)	DECLARATION OF RAYMOND
)	WARE; EXHIBITS 1-18
vs.)	
)	
SIDNEY HAYAKAWA, Director)	
of Transportation Security)	
Administration - Honolulu, KEN)	
KAMAHELE, Deputy Director,)	
Transportation Security)	
Administration-Honolulu;)	
TRANSPORTATION SECURITY)	
ADMINISTRATION; THOMAS J.)	
RIDGE, Secretary, Department of)	
Homeland Security, DEPARTMENT)	
OF HOMELAND SECURITY;)	
JOHN DOES 2-5,)	
)	
Defendants.)	
)	

DECLARATION OF RAYMOND WARE

RAYMOND WARE, declares under penalty of perjury, as follows:

1. I began working as a Supervisor/Screeners for TSA-Honolulu in September 2002. Prior to this I was a Mobile Screening Supervisor with TSA, based in Washington D.C. A copy of my resume is attached as Exhibit 1.
2. While working as a Screening Supervisor, I observed that all

other Screening Supervisors received a Rotating Screening Manager position temporarily by Mr. Sidney Hawakawa, Director and Ken Kamahele, Deputy Director.

3. I was told when I arrived at TSA Honolulu by Mr. Hayakawa that all Mobile Screening Supervisors would receive an opportunity to become Rotating Screening Managers to develop skills to become Screening Managers and to access our abilities.

4. I was never assigned a Rotating Screening Manager position while others less qualified than me were provided this opportunity.

5. The Rotating Screening Manager positions were continuously assigned from November 2002 all the way through September 2003. It did not end in February 2003.

6. From September 2002 through September 2003, I was not aware of any complaints regarding my work.

7. While working as a Screening Supervisor, I observed that several persons were hired in June 2003 as screening Managers without any job announcements. The six persons who were hired were: *William Waters, Adam Myers, Edward E. Morin, Warren K. Kadokawa, Mark C. Himenes and Danny P. Cappello*. None of these persons are African-Americans. Two, Mr. Warren and Mr.

Cappo failed the screener test.

8. Jose Abrante, who eventually became my Screening Manager, is not African-American nor is he Jamaican. He is Hispanic.

9. I contacted EEO on June 23, 2003 after finding out that six outside persons were hired as Screening Managers and I was not promoted or considered.

10. In my EEO complaint, I complained of unfair treatment by management in not selecting me for Rotating Screening Manager positions, lack of training, and the unwanted transfer to Hawaiian Airlines checkpoint. See Exhibit "2". This EEO complaint was formally filed August 19, 2003.

11. After filing the EEO complaint, I applied for a Screening Manager position which was vacant in September 2003. When I was not selected for rotating screening manager in September and for the promotion to screening manager, I filed another EEO complaint. See Exhibit "3". By not allowing me to rotate and gain extra experience as a screening manager I was essentially denied training.

12. On September 3, 2003, I met with Mr. Hayakawa to discuss my concerns regarding my EEO complaint and my non-selection as Screening Manager and not being selected as rotating screening manager. He referred me to

Mr. Kamahele stating that I have to go through the chain-of-command.

13 Prior to meeting with Mr. Hayakawa in September 2003, I asked to meet with Mr. Kamahele who did not schedule a meeting with me.

14. After contacting Mr. Hayakawa in September 2003, I did meet with Mr. Kamahele. At this meeting, I was told for the first time that there were complaints about my work. I was surprised. When I asked to see a copy of the complaints, I was informed about comments dated in September 2003 after my EEO complaint which I had never been told about nor signed. There were no supervisor complaints. I did not sign any complaints with the exception of an Incident Report I wrote on March 24, 2003 about a removing a sweater, and in June 2003 about an abandoned bag. See Exhibits "4".

15. Both Mr. Kamahele and Mr. Hayakawa were aware of my EEO complaint and had received a copy of it in August 2003 by the time I was not promoted in September 2003.

16. I wrote the attached letters dated September 8, 2003 and September 16, 2003 to Mr. Hayakawa to document my complaints about disparate treatment and discrimination. See Exhibit " 5 & 6 ".

17. Mr. Hayakawa wrote a response to me dated September 12, 2003. See Exhibit 7. The letter confirms Plaintiff was not considered for a rotating

acting screening manager position dated September 6, 2003.

18. I never had a bad work evaluation or a warning from a supervisor for poor performance. I was rated as outstanding with my only work performance evaluation at TSA-Honolulu on October 28, 2003. See Exhibit "8".

19. I was never counseled about overuse of cell phone and did not use my cell phone for personal matters at work. I was never counseled about confiscating a toy gun, diabetic syringes and Ms. Haneberg was never my immediate supervisor. In reviewing my personnel files I noticed Ms. Haneberg wrote a report after I complained about discrimination (September 2003) and the report contained incidents she allegedly observed in 2002, one year earlier. I dispute that I improperly processed a laptop computer in 2002. I was never given an opportunity to respond to Ms. Haneberg's report, as I did not see it until September 2003.

20. I was given a recertification test in November 2003. I felt apprehensive about the test and thought I would be "set up" by management because of my prior complaints of discrimination.

21. I trained and certified approximately 250 newly hired screeners who all passed the recertification test.

22. On November 6, 2003, I was given the recertification test by two unknown males. While I passed the objective written part of the recertification test

(Phases 1 and 2), the two unknown males gave me a subjective hands-on test. After I performed the test, I was told by these two unknown males that I failed it.

23. I retok the test on November 7, 2003. It was given to me by the same two unknown males, who I assumed were TSA employees from the mainland. I was told I failed and would be terminated. See Exhibit "9".

24. I requested to know in what manner I failed this test. I made this request verbally to the two unknown testers. I also requested the test results and any video of the test be given to me in writing.

25. I believe I passed the recertification test. During the pat down search I found a knife. Yet, Defendant states I did not find a prohibited item during the test.. My belief is based upon the fact that I have not been given an explanation as to the manner I failed the test, and TSA refuses to reveal the test results and grading criteria and the testers identity, claiming it is SSI privileged documents. See Exhibit "10".

26. Furthermore, I was told that I failed four parts of the test, then later three parts. See Exhibit 11. I was later told I failed three parts of the test. See Exhibit 12. To this day, I do not know the manner in which I allegedly failed the recertification test. I was told the test was pass fail. See Exhibit 13. Later my attorney was told the test was based upon 80% pass rate. See Exhibit 14.

27. I requested, through my attorney, that this Court order TSA to produce the test results without redaction, and the criteria for grading, so that I may be able to properly dispute and show the test results are faulty and a pretext for retaliation by terminating me because I filed EEO complaints. I also appealed TSA's decision not to let me see the test results to the Ninth Circuit via agency appeal. See Exhibit 15.

28. I know other TSA Screeners who failed the recertification test were not terminated. These Screeners were not African-American. The names are John Hennesy and Richard Kadani.

29. Since my termination from TSA, there has been an investigation into Honolulu TSA Management's improper promotions and retaliations against Screeners. See Exhibit "16".

30. I believe that Mr. Kamahele was terminated from Honolulu TSA in part for his improper promotions of favorite employees within TSA-Honolulu.

31. I believe I have been the victim of discrimination on the basis of race, I am African-American, and because I filed prior EEO complaints when management at TSA-Honolulu did not promote me, did not place me in Rotating Screening Manager positions, and in terminating me based upon allegedly failing a recertification test which cannot be verified.

32. Attached is a true and accurate copy of my EEO complaint filed after my termination. See Exhibit 17.

33. Attached is a true and accurate copy of my Affidavits in Support of my EEO complaints. See Exhibit 18.

34. All of the above statements are based upon my personal knowledge.

FURTHER DECLARANT SAYETH NAUGHT.

DATED: Honolulu, Hawaii, 082406


RAYMOND E. WARE
PLAINTIFF